

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TIMOTHY JOSEPH CARROLL,

Plaintiff,

vs.

CHRIS LUEBE, et al.,

Defendants.

8:21-CV-33

ORDER

The Court entered a memorandum and order on November 8, 2021, granting the defendants' motion to dismiss and dismissing the plaintiff's complaint for failure to state a claim upon which relief can be granted. [Filing 55](#). However, on its own motion, the Court gave the plaintiff until December 1 to file an amended complaint. [Filing 55 at 9](#). At the plaintiff's request, [filing 56](#), the Court extended that time until December 30, filing 57.

That date, too, has now passed, and the plaintiff has not filed an amended complaint. In its original memorandum and order, the Court cautioned the plaintiff that "[i]f an amended complaint is not filed, judgment will be entered without further notice." [Filing 55 at 9](#). Nor were the requirements for the amended complaint particularly onerous: the plaintiff was simply directed to *identify* a specific defendant who had been on notice that the plaintiff faced a substantial risk of harm. *See filing 55 at 9 n.4*.

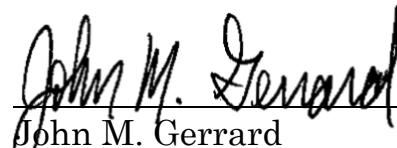
The Court was not required to afford the plaintiff *any* leave to amend his complaint, in the absence of a proper motion for leave to amend. *See United States v. Mask of Ka-Nefer-Nefer*, 752 F.3d 737, 742 (8th Cir. 2014); *see also U.S. ex rel. Raynor v. Nat'l Rural Utilities Co-op. Fin.*, Corp., 690 F.3d 951, 958

(8th Cir. 2012). The Court is not required to wait indefinitely for the plaintiff to exercise that privilege. Accordingly,

IT IS ORDERED that a separate judgment will be entered.

Dated this 10th day of January, 2022.

BY THE COURT:


John M. Gerrard
United States District Judge